

**BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: JUNE 16, 2004 Division: TDC

Bulk Item: Yes X No      Department:                     

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**AGENDA ITEM WORDING:**

Approval of a modified and extended Agreement with Cellet Travel Services, Ltd., to provide sales representation services which promote tourism.

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**ITEM BACKGROUND:**

TDC approved same at their meeting June 2, 2004.

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**PREVIOUS REVELANT BOCC ACTION:**

BOCC approved original Agreement at their meeting of July 21, 1999

BOCC approved Amendment to Agreement at their meeting of August 21, 2002

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**CONTRACT/AGREEMENT CHANGES:**

Modify and extend

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**STAFF RECOMMENDATIONS:**

Approval

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**TOTAL COST:** \$68,000


**BUDGETED:** Yes X No     

**COST TO COUNTY:** \$68,000 **SOURCE OF FUNDS:** TDC

**REVENUE PRODUCING:** Yes X No      **AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty X OMB/Purchasing X Risk Management X

**DIVISION DIRECTOR APPROVAL:**

  
(Lynda Stuart)

**DOCUMENTATION:** Included X To Follow      Not Required     

**DISPOSITION:**                                     

**AGENDA ITEM #** D5

# MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

## CONTRACT SUMMARY

Contract with: \_\_\_\_\_ Contract # \_\_\_\_\_  
 Effective Date: 7/1/04  
 Expiration Date: 6/30/07  
 Contract Purpose/Description:

Approval of a modified and extended Agreement with Cellet Travel Services, Ltd., to provide sales representation services which promote tourism.

Contract Manager: Maxine Pacini 3523 TDC # 3  
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 6/16/04 Agenda Deadline: 6/1/04

## CONTRACT COSTS

Total Dollar Value of Contract: \$ 68,000 Current Year Portion: \$ \_\_\_\_\_  
 Budgeted? Yes ☒ No ☐ Account Codes: 116-76065-530340-T46G-220-X-530310  
 Grant: \$ \_\_\_\_\_  
 County Match: \$ \_\_\_\_\_

## ADDITIONAL COSTS

Estimated Ongoing Costs: \$ \_\_\_\_\_/yr For: \_\_\_\_\_  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

## CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>5/20/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/20/04</u>
Risk Management	<u>5/26/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/26/04</u>
O.M.B./Purchasing	<u>05/21/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/26/04</u>
County Attorney	<u>5/19/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>S.Hutton</u>	<u>5/19/04</u>

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## **CONTRACT WITH CELLET TRAVEL SERVICES, LTD**

THIS CONTRACT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the BOARD OF COUNTY COMMISSIONERS, Monroe County, Florida, hereinafter referred to as the County and Cellet Travel Services, Ltd., hereinafter referred to as Provider;

### **WITNESSETH**

WHEREAS, Provider is qualified to provide sales representation services which promote tourism; and

WHEREAS, County and Provider currently have a contractual arrangement for services through September 30, 2004; and

WHEREAS, both parties desire to modify said contract and to extend it an additional three years; and

WHEREAS, the Tourist Development Council (TDC) has recommended to County that a new contract for sales representation services be entered into; and

WHEREAS, the County wishes to enter into this contract for sales representation services with the Provider;

NOW AND THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **OLD CONTRACT SUPERSEDED:** The contract dated July 21, 1999; and amended on August 21, 2002 is superseded and replaced by this contract effective on the beginning date of paragraph 2.

2. **TERMS:** The term of this contract is for a period of three years beginning July 1, 2004 and expiring on September 30, 2007.

3. **SCOPE OF SERVICES:** In consideration of the base monthly contractual amount, the PROVIDER shall provide the following services to promote the Florida Keys as a primary destination in Florida on behalf of the Monroe County:

- Provide services to develop a sales and marketing campaign for Florida Keys in Europe.
- Provide administrative offices, staff, promotional materials and promotional services to European markets.
- Provide travel trade (tour operators, travel agenda, meeting planners) – marketing assistance, materials, training to help develop travel to the Florida Keys.
- Provide trade and consumer promotional fulfillment program.
- Provide telephone information services assistance program.
- Provide photo library to assist travel industry.
- Provide promotional assistance to Airline Industry that support travel to Florida Keys.

## **Cellet Travel Services, Ltd Contract**

- Provide staff services to travel trade shows.
- Provide recommended advice to TDC staff on markets, trends and issues.
- Provide monthly reports.
- Provide as liaison with TDC European Public Relations Agency.
- Provide as liaison with Visit Florida offices in Europe.
- Provide administrative services expenses such as telephone, fax, email and copy machine.
- Provide the establishment and management of agreements with sub-agencies for European markets and programs.

4. **MONTHLY REPORTS:** PROVIDER shall provide to TDC Administrative Office, 1201 White Street, Suite 102, Key West, Florida, monthly reports and document of results of services each month of the year. Also to include copies of any reports which Provider receives from travel agents and tour operators showing their bookings to Monroe County.

Monthly reports to TDC shall include all of the following:

- Number of Sales Calls carried out
- Number of enquiries received
- Number of fulfilment packs issued
- New Product Development
- Market Trends and News from European Travel Trade
- Travel agents and operators bookings to the Florida Keys
- Monthly invoices

5. **COMPENSATION:** PROVIDER shall be compensated in an amount of \$68,000 (Sixty Eight Thousand Dollars) per year, excluding any reimbursable expenses to perform the Scope of Services. Reimbursable expenses to perform the Scope of Services (supported by necessary documentation): are as follows:

- Trade Show Registrations
- Exhibit Expenses
- Coordination fee for presentation for trade shows, exhibits, special projects
- Special Promotions
- Travel and Entertainment
- Postage and Carriage
- Memberships
- Printing costs
- Translations

and other operating expenses as outlined and approved each year within the annual Marketing Plan. Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the BOCC.

6. **BILLINGS:** The PROVIDER shall submit to the TDC Administrative Office monthly billings for \$5,666.66 for staff and contracted services. The COUNTY shall be responsible for payment of all authorized fees and reimbursable costs due the PROVIDER while this contract is in force which are described and limited in paragraph 4. Said payments shall be sent by mail by COUNTY directly to Cellet Travel Services, Ltd., Brook House, 47 High Street, Henley in Arden, Warwickshire, B95 5AA, England.

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7. **AGENCY OF RECORD:** The PROVIDER shall act as the agency of record of the TDC for sales representation within Europe.

8. **RECORDS – ACCESS AND AUDITS:** The Provider shall maintain adequate and complete records to justify all charges, expenses and costs incurred in performing the work for at least three (3) years after completion of this contract. The County shall have access to such books, records, and documents concerning the contracted services. The access to and inspection of such books, records, and documents by the County shall occur at any reasonable time. Provider understands that it shall be responsible for repayment of any and all audit exceptions identified by County. Any current or subsequent contract awards will be offset by the amount of any audit exceptions. In the event there are not funds still held by County for a contract award, the amount of audit exception shall be billed to Provider who shall promptly pay same.

9. **INDEPENDENT CONTRACTOR RELATIONSHIP:** The Provider, is and shall be, in the performance of all works, services, and activities under this contract, an independent contractor and not an employee, agent or servant of the County. The Provider shall exercise control, direction, and supervision over the means and manner and personnel in which it and its employees perform the work. In all respects, the "Provider's" relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees or agents of the County. Moreover, the Provider shall have no authority whatsoever to act on behalf and/or as agent for the County in any promise, contract, or representation other than specifically provided for in this contract. The County shall at no time be legally responsible for any negligence on the part of said contractor, its employees or agents, resulting in either bodily or personal injury or property damage to any individual, firm, or corporation.

10. **MODIFICATION:** Additions to, modification to, or deletions from the Scope of Work and/or costs of work set forth in this contract may be made only by amendment to this contract which must be approved in writing by the County. No modification shall become effective without written approval of County.

11. **BREACH AND PENALTIES:** The parties agree to full performance of the covenants contained in this contract, and the County reserves the right at its discretion, provided any breach is material, to terminate the services in this contract for any misfeasance, malfeasance or nonperformance of the contract terms or negligent performance of the contract terms by Provider. Any waiver of any breach of covenants herein contained shall not be deemed to be a continuing waiver and shall not operate to bar the County from declaring a forfeiture for any succeeding breach either of the same conditions or covenants or otherwise.

12. **INSURANCE:** The PROVIDER shall carry during the term of this contract general liability insurance, including bodily injury and property loss damage to cover all claims, demands or actions by any person or entity in anyway arising from the services provided. Such liability insurance shall be in an amount not less than \$1,000,000.00. Monroe County shall be named as additional insured under the insurance policy and such insurance shall be primary and non contributing with any insurance carried by the County. The PROVIDER shall furnish the County with a certificate evidencing the insurance required by this paragraph upon the signing of this contract.

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13. **INDEMNIFICATION AND HOLD HARMLESS:** The Provider shall indemnify and hold harmless the County, their departments, agencies, officials, employees, agents, servants and contractors, against any claims, liabilities and expenses (including reasonable attorney's fees) arising as a result of any direct and/or indirect action of Provider, its employees, agents, servants and/or contractors in the performance of the terms of this contract or otherwise related to activity conducted in the furtherance of this contract except to the extent that, in the case of any act of negligence, Provider reasonably relied upon material supplied by the County or any employee of County. Provider shall immediately give notice to County of any suit, claim or action made against Provider that is related to any activity under this contract and will cooperate with the County in the investigation arising as a result of any suit, claim or action related to this contract.

14. **LAWS AND REGULATIONS:** It shall be understood and agreed that any and all services, materials and equipment shall comply fully with all Local, State and Federal laws and regulations.

15. **TAXES:** The County's exempt from Federal, Excise and State of Florida Sales Tax.

16. **FINANCE CHARGES:** The County will not be responsible for any finance charges.

17. **SEVERABILITY:** If any provision of this contract shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this contract, or the application of such provision other than those as to which it is invalid or unenforceable, shall not be affected thereby; and each provision of this contract shall be valid and enforceable to the fullest extent permitted by law.

18. **FORCE MAJEURE:** The Provider shall not be liable for delay in performance or failure to perform in whole or in part, the services due to the occurrence of any contingency beyond its control or the control of any of its sub-Providers or suppliers, including labor dispute, strike, labor shortage, war or act of war whether an actual declaration thereof if made or not, insurrection, sabotage, riot or civil commotion, act of public enemy, epidemic, quarantine restriction, accident, fire, explosion, storm, flood, drought, or other act of God, act of any governmental authority, jurisdictional action, or insufficient supply of fuel, electricity, or materials or supplies, or technical failure where the Provider has exercised reasonable care in the prevention thereof, and any such delay or failure shall not constitute a breach of the contract. The Provider shall notify the TDC of any delay or failure to perform within five (5) days of such action. Upon demand of TDC, the Provider, must furnish evidence of the causes of such delay or failure. The Provider shall not resume its performance hereunder unless provided for in the Scope of Services.

19. **ASSIGNMENT:** Provider shall not assign, transfer, sublease, pledge, hypothecate, surrender, or otherwise encumber or dispose of this contract or any estate created by this contract or any interest in any portion of the same, or permit any other person or persons, company or corporation to perform services under this contract without first

## **Cellet Travel Services, Ltd Contract**

obtaining the written consent of the County. In the event of such consent, this contract shall be binding upon the Provider's successors and assigns.

20. **DISCLOSURE**: The Provider shall be required to list any or all potential conflicts of interest, as defined by Florida Statute 112 and Monroe County Ethics Ordinances. The Provider shall disclose to the County all actual or proposed conflicts of interest, financial or otherwise, direct or indirect, involving any client's interest which may conflict with the interest of the County.

21. **ADDITIONAL CONDITIONS**: Provider agrees to accept additional conditions governing the use of funds or performance of work as may be required by federal, state or local statute, ordinance or regulation or by other policy adopted by County. Such additional conditions shall not become effective until Provider has been notified in writing and no such additional conditions shall be imposed retroactively.

22. **INDEPENDENT PROFESSIONAL JUDGEMENT**: Provider shall at all times exercise independent professional judgment and shall assume full responsibility for the service to be provided and work to be completed.

23. **CARE OF PROPERTY**: The Provider shall be responsible to the County for the safekeeping and proper use of the property entrusted to Provider's care, to include any and all insurance for the value of the equipment and any maintenance or service contracts relating to such equipment for its service life.

24. **ETHICS CLAUSE**: The Firm warrants that no person has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the Monroe County government or the TDC has any interest, financially or otherwise, in the Firm or its subcontractors.

25. **NOTICE**: Any notice required or permitted under this contract shall be in writing and hand-delivered or mailed, postage prepaid by certified mail, return receipt requested, to the other party as follows:

For Provider :

Ms. Stella Clery-Ackland  
Cellet Travel Services, Ltd.  
Brook House  
47 High Street  
Henley in Arden  
Warwickshire  
England, B95 5AA

For Monroe County TDC:

Ms. Lynda Stuart  
1201 White Street  
Suite 102  
Key West, FL 33040

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County shall give notice to Provider of any meetings on which is an agenda item pertaining to Providers contract. Said notice shall be given so that Provider has ample time to make travel arrangements for an Executive Board member to attend the meeting.

26. **TERMINATION:** Either party shall have the right to cancel this contract at its sole discretion with or without cause upon sixty (60) days prior written notice to the other party. Provider shall deliver to the County all papers, equipment and other material related to the work performed under this contract upon termination thereof.

27. **PUBLIC ENTITY CRIME STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

28. **APPROVALS AND CHANGES OF SPECIFICATIONS OF SERVICES:** The TDC shall have the sole and exclusive right to approve, modify, reject, or cancel any and all plans, proposals, submissions and other work in process, in which event the TDC's directions shall be immediately implemented. However, nothing in this contract shall be construed as requiring the Provider to violate any contractual commitments to vendors contracted on TDC's behalf. All contractual commitments to contracted vendors require the TDC's prior written approval. The County shall only be liable for charges approved in writing prior to the PROVIDER's entering into such contractual commitment.

The performance of all services between Provider as described and otherwise provided under this contract will be in full cooperation with and under the direct supervision of the TDC. Whenever approval is required from the TDC, said approval shall be from the TDC Marketing Director or TDC Director of Sales, according to TDC policy.

29. **EXCLUSIVE REPRESENTATION:** The Provider agrees that it will not represent any private resort or attraction within Monroe County or any other municipal or County destination in Florida, without prior approval in writing from the TDC. Provider shall act at all times herein as independent contractor, and nothing contained herein shall be construed to create the relation of principal and agent or employer and employee, between TDC/County and Provider.

30. **APPLICABLE LAW; VENUE:** This contract shall be governed by and construed according to the laws of the State of Florida and all actions brought under or pursuant to this contract shall be brought in a court of competent jurisdiction in Monroe County, Florida.

31. **OWNERSHIP:** All work performed under the contract shall be the property of the TDC and COUNTY, for whatever use and/or disposition the TDC and County may deem appropriate. Such property shall include: a) all plans, documents and recommendations; b) All manuscripts, copy, graphics, and videotapes. The TDC and County shall have the full right to



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reproduce and/or use any products derived from the contractor's work under the contract without payment of any royalties, or fees.

32. **FULL CONTRACT:** This writing embodies the entire contract and understanding between the parties hereto, and there are not other contracts/agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. In order to be effective, any amendment and/or change to this contract shall be in writing recommended by the TDC and approved by the County and signed by both parties.

33. This contract has been carefully reviewed by legal counsel for both parties. Therefore, this contract shall not be strictly construed against either party on the basis of authorship.

IN WITNESS WHEREOF, the parties have executed this contract the day and year first above written.

(SEAL)  
Attest:  
DANNY L. KOLHAGE, Clerk

Monroe County Board of County  
Commissioners

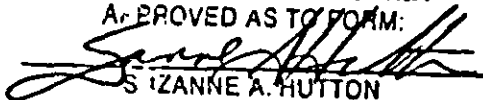
\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor/Chairman

(SEAL)  
Attest:

Celler Travel Services, Ltd.

By : \_\_\_\_\_  
President

MONROE COUNTY ATTORNEY  
As PROVED AS TO FORM:  
  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
Date: 5/19/04